

On March 10 and 13, 1941, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

#### TOMATOES AND TOMATO PRODUCTS

**1773. Adulteration of tomato paste, tomatoes with puree, and peeled tomatoes with sauce. U. S. v. Flotill Products, Inc. Plea of guilty. Fine, \$1,100.** (F. D. C. No. 2129. Samples Nos. 56444-D, 56455-D, 56456-D, 72858-D, 72924-D, 72925-D, 72926-D, 72934-D, 72953-D, 72955-D, 73376-D to 73380-D, incl., 73522-D, 85615-D, 92003-D to 92006-D, incl., 92356-D.)

Most lots of these products contained mold, indicating the presence of decomposed material. The remaining lots contained insect fragments or both mold and insect fragments.

On December 12, 1940, the United States attorney for the Northern District of California filed an information against Flotill Products, Inc., Stockton, Calif., alleging delivery for introduction in interstate commerce within the period from on or about November 4, 1939, to on or about February 8, 1940, from the State of California into the States of New York, Pennsylvania, Nebraska, Ohio, and Maine, of quantities of tomato paste, tomatoes with puree, and peeled tomatoes with sauce that were adulterated. The articles were labeled variously: "Flotta Brand Pure Tomato Paste"; "Guglielmi Brand \* \* \* Packed in U. S. A. For R. C. Williams & Co. New York"; "Royal Scarlet Tomato Paste R. C. Williams & Co. Inc. Distributors"; "Gina [or "Moosalina" or "Coba"] Brand Tomato Paste Packed in California for Moosalina Prod. Corp. Brooklyn, N. Y."; "Delsa Brand \* \* \* Tomato Paste"; "Pastene \* \* \* Plum Tomatoes with Puree \* \* \* Distributed by Pastene & Co., Inc."; "Delia Brand Tomato Paste Packed in California For M. De Rosa, Inc. New York"; and "F. P. I. Brand Choice Peeled Tomatoes with Sauce."

The tomatoes with puree and one lot of the tomato paste were alleged to be adulterated in that they consisted in whole or in part of filthy and decomposed substances. Two lots of the paste were alleged to be adulterated in that they consisted in whole or in part of filthy substances. The remaining lots of paste and the peeled tomatoes in the sauce were alleged to be adulterated in that they consisted in whole or in part of decomposed substances.

On February 26, 1941, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$1,100.

**1774. Adulteration of tomato paste and peeled tomatoes; adulteration and misbranding of tomatoes with puree from trimmings. U. S. v. Riverbank Canning Co. and Lorenzo Zerillo. Pleas of guilty. Total fines, \$360.** (F. D. C. No. 2871. Sample Nos. 56441-D, 56478-D, 56479-D, 72856-D, 72944-D, 72950-D, 72954-D, 72962-D, 73382-D, 73658-D, 73659-D, 85690-D, 85842-D, 85843-D, 85844-D, 86053-D, 92039-D, 92040-D, 92377-D, 92422-D.)

A portion of these products contained excessive mold, indicating the presence of decomposed material; portions contained worm and insect fragments and in certain instances both conditions were found. One lot was falsely labeled as to the name and place of business of the packer.

On December 12, 1940, the United States attorney for the Northern District of California filed an information against the Riverbank Canning Co., a corporation, Riverbank, Calif., and Lorenzo Zerillo, alleging shipment within the period from on or about November 13, 1939, to on or about February 13, 1940, from the State of California into the States of New York, Rhode Island, Florida, Maine, and Massachusetts, of quantities of tomato paste and peeled tomatoes which were adulterated and of a quantity of tomatoes with puree from trimmings which was adulterated and misbranded. The tomato paste was labeled in part: "Madonna Brand [or "Fiamma"] Tomato Paste \* \* \* Packed by Riverbank Canning Company"; "Del Bueno Tomato Paste Distributors P. Astarbi & Co. Inc. Brooklyn, N. Y."; "Appetit Brand \* \* \* Distributors J. Ossola Co. Pittsburgh"; "Premium \* \* \* Tomato Paste Francis H. Leggett & Co. Distributors New York, N. Y."; "Campagnola Brand Tomato Paste \* \* \* Packed by Harbor City Canning Co. Los Angeles, California"; "Minervini Brand Tomato Paste \* \* \* Packed by John Minervini Hoboken, N. J."; "Baiadera Brand Tomato Paste \* \* \* Packed in California for G. Cuccia & Sons, Inc. New York"; "Buon Gusto Natural Tomato Paste \* \* \* Sole Distributors Bestaste Products Company Buffalo, N. Y."; the peeled tomatoes were labeled in part: "Zello Brand \* \* \* Packed by Riverbank Canning Company." The tomatoes with puree from trimmings were labeled in part: "Diana Brand \* \* \* Packed and Guaranteed by Zerillo and La Fata Heraldsburg, California."

Portions of the tomato paste and the peeled tomatoes were alleged to be adulterated in that they consisted in whole or in part of decomposed substances. Portions of the tomato paste were alleged to be adulterated in that they consisted in whole or in part of filthy substances. The remainder of the tomato paste and the tomatoes with puree from trimmings were alleged to be adulterated in that they consisted in whole or in part of a filthy and decomposed substance.

The tomatoes with puree from trimmings were alleged to be misbranded in that the statement "Packed by \* \* \* Zerillo and La Fata Heraldsburg, California" was false and misleading since the product was not packed by Zerillo and La Fata, Heraldsburg, Calif.

On December 18, 1940, pleas of guilty having been entered by the individual defendant for himself and on behalf of the corporation, the court sentenced each defendant to pay a fine of \$10 on each of 18 counts of the information, the total fines amounting to \$360.

**1775. Misbranding of canned tomatoes. U. S. v. 349 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond for relabeling. (F. D. C. No. 3932. Sample No. 8217-E.)**

This product contained added strained residual tomato material from preparation for canning and was not properly labeled to indicate that fact.

On March 7, 1941, the United States attorney for the District of Minnesota filed a libel against 349 cases of canned tomatoes at Bemidji, Minn., alleging that the article had been shipped in interstate commerce on or about September 13, 1940, by the Gas City Canning Co. from Gas City, Ind.; and charging that it was misbranded. The article was labeled in part: (Cans) "Golden Valley Tomatoes."

The article was alleged to be misbranded in that it purported to be canned tomatoes, a food for which a definition and standard of identity had been prescribed by regulation as provided by law, and its label failed to bear the common name of the optional ingredients, "added strained residual tomato material from preparation for canning," present in such food.

On April 10, 1941, the Nash Finch Co., of Bemidji, Minn., claimant, having admitted the allegations of libel, judgment of condemnation was entered and the product was released under bond conditioned that it be relabeled to comply with the law.

**1776. Misbranding of canned tomatoes. U. S. v. 500 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 3664. Sample No. 55158-E.)**

This product was substandard in quality because of low drained weight and excessive peel and was not labeled to indicate that it was substandard.

On January 13, 1941, the United States attorney for the Western District of Washington filed a libel against 500 cases of canned tomatoes at Hoquiam, Wash., alleging that the article had been shipped in interstate commerce on or about October 4, 1940, by Parrott & Co. from San Francisco, Calif.; and charging that it was misbranded. The article was labeled in part: (Cans) "Del Haven Tomatoes."

It was alleged to be misbranded in that it purported to be a food for which a standard of quality had been prescribed by regulations as prescribed by law but its quality fell below such standard and its label did not bear in such manner and form as the regulations specify, a statement that it fell below such standard.

On March 11, 1941, Parrott & Co., a corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled in conformity with the law.

**1777. Misbranding of canned tomatoes. U. S. v. 62 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 3303. Sample No. 26548-E.)**

This product was substandard in quality because of low drained weight, and it was not labeled to indicate that it was substandard.

On November 7, 1940, the United States attorney for the District of Oregon filed a libel against 62 cases of canned tomatoes at Portland, Oreg., alleging that the article had been shipped from Seattle, Wash., on or about October 21, 1940; and charging that it was misbranded. The article was